



US Army  
Corps  
of Engineers  
Baltimore  
District

# PUBLIC NOTICE



Maryland Department  
of  
the Environment

In Reply to Application Number  
CENAB-OP-RMS(MD DNR, FISHERIES  
SERVICE/UPPER BAY SHELL DREDGING)  
PN2006-61510-13

#06-14

Comment Period: March 20, 2006 to May 9, 2006

THE PURPOSE OF THIS JOINT PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW AND TO ANNOUNCE THAT A JOINT U.S. ARMY CORPS OF ENGINEERS (Corps)/MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) PUBLIC HEARING WILL BE HELD ON THE PROJECT. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

A joint Corps/MDE Public Hearing will be held on April 24, 2006 from 7:00 PM to 9:00 PM, at the Anne Arundel County Police, Southern District Building, 35 Stepney Lane, Edgewater, Maryland 21307. Attendees wishing to speak at the hearing should sign up at the registration table at least one-half hour prior to the hearing starting time.

HEARING LOCATION: Anne Arundel County Police  
Southern District Building  
35 Stepney Lane  
Edgewater, Maryland 21037

The Corps and MDE have received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344) and State authorization pursuant to the Tidal Wetlands Act, as described below:

APPLICANT: MD Department of Natural Resources  
Fisheries Service  
Shellfish Division  
580 Taylor Ave, B-2  
Annapolis, MD 21401

LOCATION: In the Upper Chesapeake Bay off of *Tolchester* Beach and *Handys* Point (for shell dredging), Kent County, Maryland and various other Maryland Counties within the Chesapeake Bay watershed for shell plantings.

WORK: In 2006, the applicant proposes to hydraulically dredge 260,000 cubic yards of fossilized oyster shell from three sites in the *Upper* Chesapeake Bay, depicted on the enclosed plans as areas, A, D and F. Dredge cuts will be no wider than 250 feet, with depths not to exceed 30 feet below the bay bottom. The material not retained by the dredge's screens (primarily small shell *grit*) will be redeposited in the dredge cuts by means of an elephant trunk discharge pipe. The proposed dredge sites have been previously dredged for oyster shell. Dredging is proposed to occur between June 1 through September 14. The dredged shell will be used for oyster restoration plantings in various locations within the Chesapeake Bay and its tributaries within the State of Maryland, as depicted on the enclosed plans. All work is to be completed in accordance with the enclosed plans. If you have any questions concerning this matter, please contact the Corps' project manager, Mr. Rod *Schwarm* at (410) 820-8550, or the MDE project manager, Mr. Rick *Ayella* at (410) 537-3835.

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1986 (Public Law 04-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, permitted, funded, or undertaken by the agency that may adversely effect essential fish habitat (EFH). The project site lies in or adjacent to EFH as described under MSFCMA for juvenile and adult life stages for *Scophthalmus aquosus* (windowpane flounder), *Pomatomus saltrix* (blue fish), and *Paralichthys dentatus* (summer flounder); and eggs, larvae, juvenile, and adult life stages of *Sciaenops ocellatus* (red drum), *Scomberomus cavalla* (king mackerel), *Scomberomus maculatus* (spanish mackerel), and *Rachycentron canadum* (cobia), managed species under MSFCMA. The project has the potential to adversely effect EFH or the species of concern by loss of spawning, nursery, forage and/or shelter habitat. The Baltimore District has determined that the adverse effects of this project would not be substantial and an abbreviated consultation will be conducted with NMFS. No mitigation measures are recommended to minimize adverse effects on EFH, at this time. This determination may be modified if additional information indicates otherwise and would change the preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the

proposal will be considered including the cumulative effects thereof: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, Cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety. food and fiber production, and, in general, the needs and welfare of the people.

Comments are being solicited from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the **impacts** of this **proposed** activity. Any comments received will be considered by the Corps of Engineers and MDE to **determine whether to issue, modify, condition or deny** a permit for this proposal. To make this decision, comments are used to **assess** impacts on endangered species. historic properties, water quality, general environmental effects. and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment **and/or** an Environmental Impact Statement pursuant to the National **Environmental** Policy Act. Comments are also used to **determine** the need for a public hearing and to determine the overall public interest of the proposed activity.

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the MDE. Any written comments concerning the work described above which relate to water quality certification must be received by the Standards and Certification Division, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430. Baltimore, Maryland 21230-1708 within the comment period as specified above to receive consideration. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified above to receive consideration. The 401 certifying agency has a statutory limit of one year to make its decision.

The **applicant** has certified in this **application** that the **proposed** activity **complies** with and will be conducted in a **manner consistent** with the Maryland Coastal zone Program. This certification statement is available for inspection in the District Office; however, public comments relating to consistency must be received by the Coastal Zone Division, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland, 21230-1708, within the comment period as specified above. It should be noted that the CZ Division has a **statutory** limit of 6 months to make its consistency determination

The applicant must obtain any State or local government **permits** which may be required

A preliminary review of this application indicates that the proposed work will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination

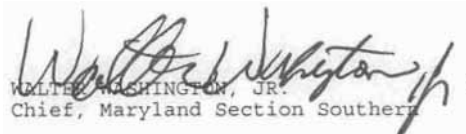
Review of the latest published version of the National Register of Historic Places indicates that **no** registered properties listed as eligible for inclusion therein are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

Written comments concerning the work described **above** must be received by the Wetlands and waterways Program, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430. Baltimore, Maryland 21230-1708 within the comment period as specified above to receive consideration. Written comments relating to applicability of the MDSPGP may be submitted directly to the District Engineer, U.S. Army Corps of Engineers, Baltimore District. Attn: CENAB-OP-R, P.O. Box 1715. Baltimore. Maryland 21203-1715, within the comment period as specified above to receive consideration.

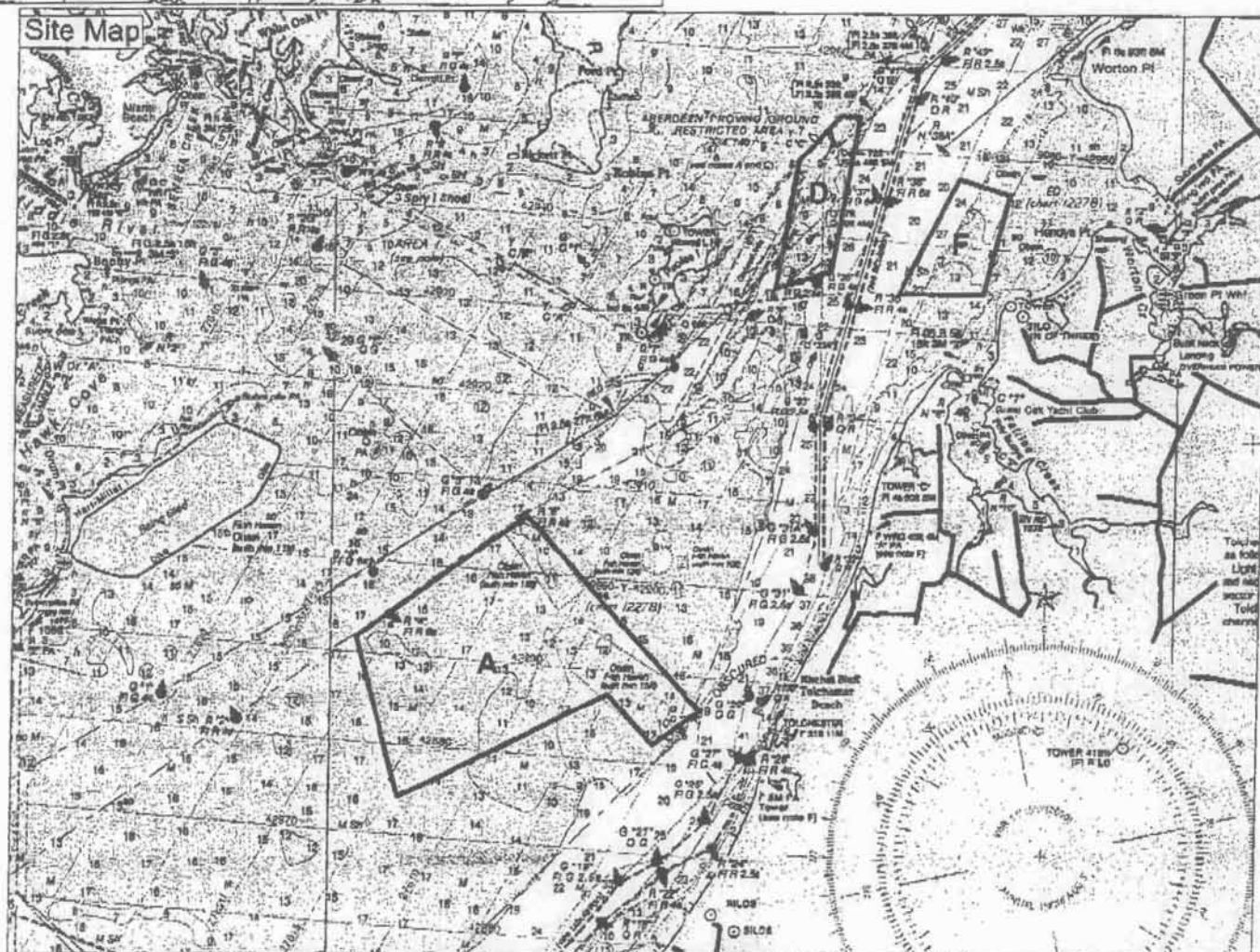
It is requested that you **communicate** the foregoing **information** concerning the proposed work to any persons known by you to be interested and not being **known** to this office, who did not receive a **copy** of this notice.

FOR THE DISTRICT ENGINEER

  
WALTER B. WASHINGTON, JR.  
Chief, Maryland Section Southern

Application By:

Maryland Department of Natural Resources  
Fisheries Service, Shellfish Program  
Tawes State Office Building, B-2  
580 Taylor Avenue  
Annapolis, MD 21401



**Proposed Shell Dredging: Upper Chesapeake Bay - 2006**

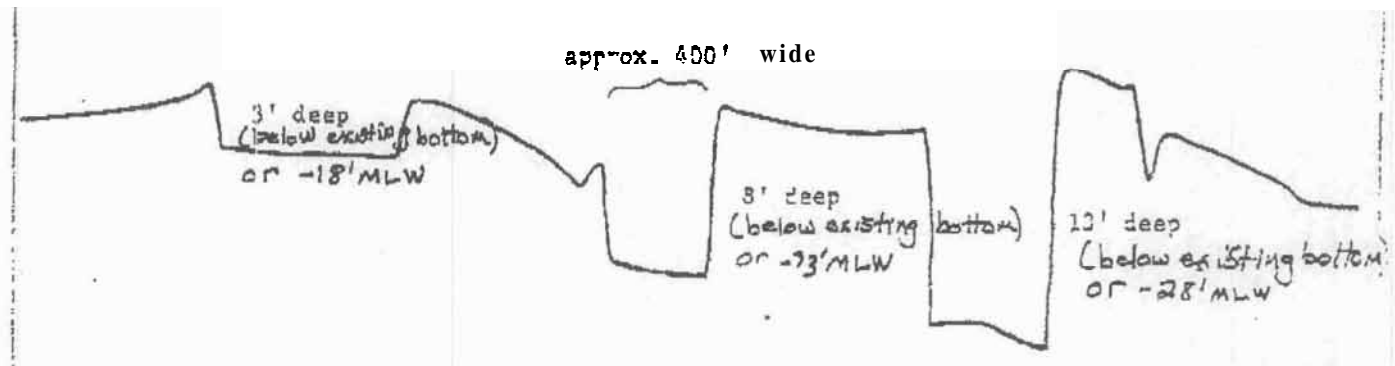
Approximately 260,000 cubic yards of oyster shell are to be dredged during 2006. The material not retained by the dredge's screens (primarily small shell grit) will be redeposited in the dredge cuts by means of an elephant trunk discharge pipe, which extends over the side of the dredge. Dredge outs will be no wider than 250' with a depth up to about 30' below bay bottom. The areas to be dredged are indicated on the attached map as areas A, D and F. Dredging will occur between June 1 and September 14. Areas A, D and F have been dredged for many years under a number of previous shell dredging permits. Previous archeological surveys resulted in no special conditions or restrictions for these areas.

MARYLAND DEPARTMENT OF NATURAL RESOURCES  
FISHERIES SERVICE, SHELLFISH PROGRAM  
MARCH 2006

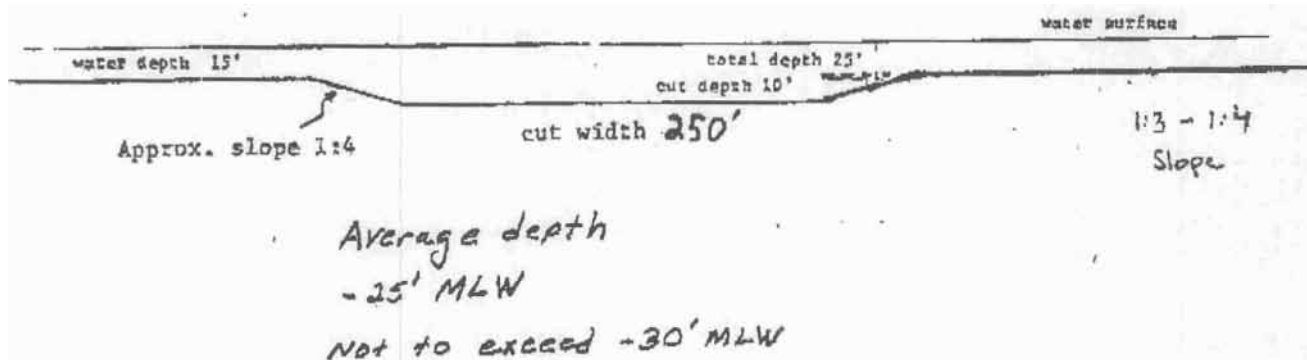
SHEET 2 OF 4

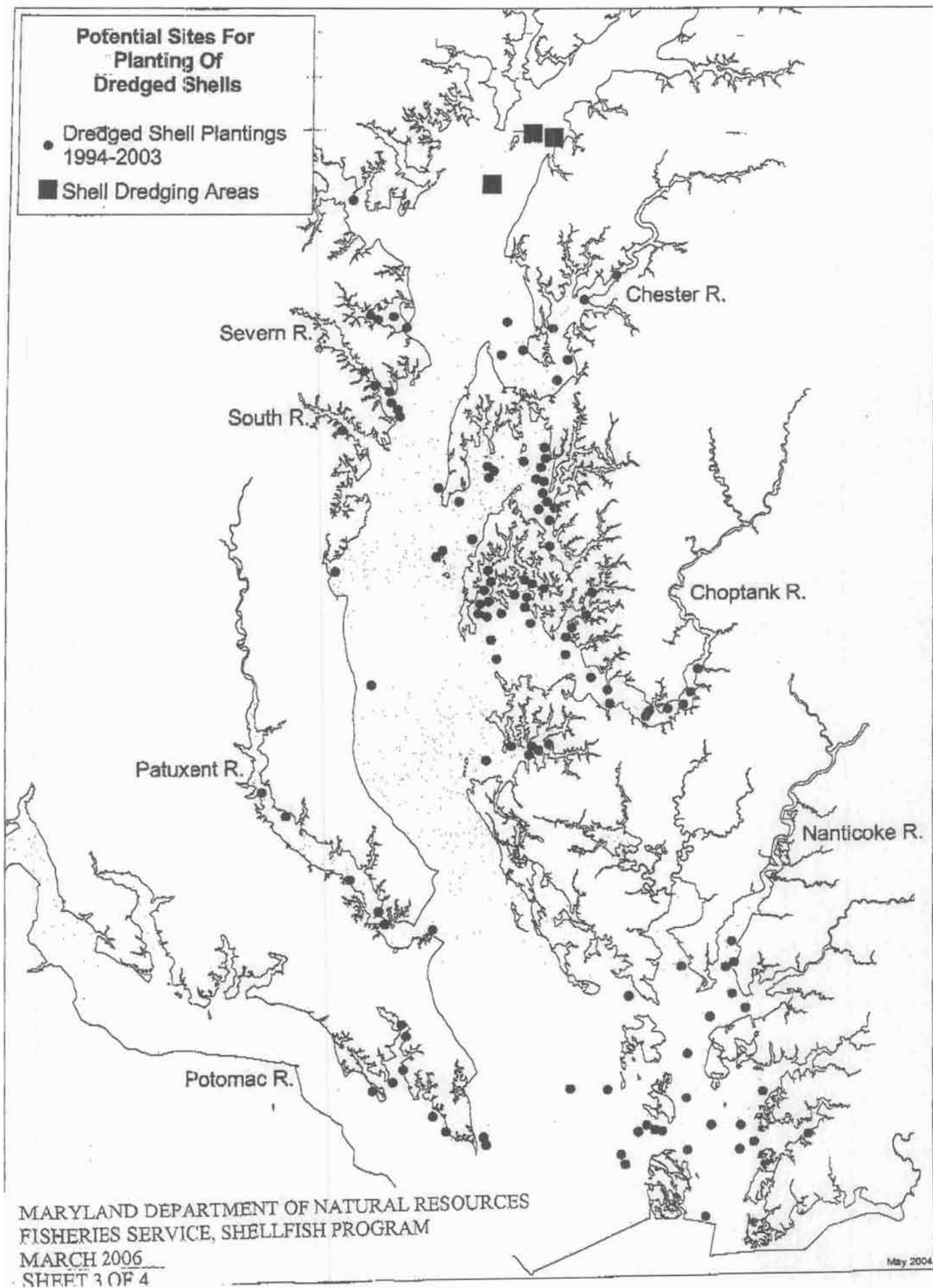
BOTTOM PROFILES BASED ON EXISTING CUTS

1) Tracing from Bottom Topography Survey 1987: not to scale



2) Diagram of proposed dredge cuts under new permit: to scale





**Maryland Oyster  
Restoration Harvest  
Closure\* Areas**

Natural Oyster populations  
are being enhanced with  
hatchery seed and shell  
plantings at most of these  
locations.

- Sanctuary
- Reserve
- Sanctuary/Reserve  
Combination
- Proposed Sites

\* Any form of shellfish  
harvest (clam/oyster)  
is prohibited in these  
areas.